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REMARKS

Applicant has amended claim 1. Applicant respectfully submits that these amendments to claim 1 are supported by the application as originally filed, particularly page 5, and do not contain any new matter. In addition, Applicant respectfully submits that the amendments to claim 1 have been previously argued to the Examiner and are supported by the application at page 5 and therefore do not raise any new issues which would require further consideration and/or search. Accordingly, the Final Office Action will be discussed in terms of the claims as amended.

The Examiner has rejected claims 1-3 under 35 USC 112, first paragraph, as failing to comply with the written description requirement, stating that the weight basis of the ratio and amounts fail to satisfy the written description requirement of 35 USC 112, first paragraph, in the claims 1-3.

In reply thereto, Applicant directs the Examiner's attention to page 5, lines 2-4 wherein it states:

"Table 1 shows in a tabulated form the typical numerical values found of the water repellant of this invention, with the mixing ratio of the component ingredients fixed at the optimum value of 1:4:1."

In addition, Applicant directs the Examiner's attention to the first full paragraph of page 5 and particularly to where it states:

"First, in a room of normal temperature, 1 kg of liquid zirconium oxide ... and 4 kg of liquid paraffin ... are placed in a reaction column and stirred Subsequently, the resultant mixture and 1 kg of liquid polyvinyl acetate resin ... are added together"

From the above, Applicant respectfully submits that it clearly discloses an Applicant's application that the component ingredients are mixed together in the amounts of 1 part by weight of liquid zirconium oxide, 4 parts by weight of liquid paraffin and 1 part by weight of liquid polyvinyl acetate resin. Therefore, Applicant respectfully submits that claims 1-3 comply with the requirements of 35 USC 112, first paragraph.

The Examiner has rejected claims 1-3 under 35 USC 112, second paragraph, as being indefinite, stating that in the emulsions of zirconium oxide and polyvinyl acetate, the amounts of each in the emulsion are not given.

In reply thereto, Applicant respectfully submits that the use of the word in emulsion in claim 1 was meant to correspond to the use of the word liquid in the first full paragraph of page 5 of Applicant's application. Clearly, at page 5 it discloses the utilization of 1 kg of liquid zirconium oxide and 1 kg of liquid polyvinyl acetate resin. Accordingly, Applicant respectfully submits that claims 1-3 comply with the requirement of 35 USC 112, second paragraph.

The Examiner has rejected claims 1-3 under 35 USC 103 as being obvious over Quemin, stating that Quemin discloses a makeup composition comprising 0.5-25 wt % pigment such as zirconium oxide, 0.5-40 wt % of oil phase such as liquid paraffin and 0.01-5 wt % of an nonionic thickness such as vinyl acetate copolymer and these percentages provide for a ratio that overlaps with the presently claimed ratio of 1:4:1.

In reply thereto, Applicant would like to point out that, as is clearly stated at page 5 of Applicant's application, the proportions of Applicant's invention are in parts by weight. In other words, there is one part by weight of zirconium oxide, four parts by weight of liquid paraffin and one part by weight of polyvinyl acetate resin. If one were to convert these parts by weight into percentages, it would be 16% by weight of zirconium oxide, 64% by weight of liquid paraffin and 16% by weight of liquid polyvinyl acetate resin. Clearly, the makeup composition of Quemin does not fall within these percentages. In addition, Applicant respectfully submits that the zirconium oxide in Applicant's invention is a liquid whereas the zirconium oxide in Quemin is a pigment in the form of solid particles and these solid particles are then added to the emulsion which is the makeup composition. Still further, Applicant respectfully submits that Quemin is a makeup composition and not a repellant for concrete, mortar, stone or wood.


In view of the above, therefore, Applicant respectfully submits that Applicant's invention is not only not the makeup composition of Quemin but also would not be suggested to one of ordinary skill in the art and claims 1-3 are not obvious over Quemin.

In view of the above, therefore, it is respectfully requested that this Rule 116 Amendment be entered, favorably considered and the case passed to issue.

Please charge any additional costs incurred by or in order to implement this Rule 116
Amendment or required by any requests for extensions of time to KODA & ANDROLIA
DEPOSIT ACCOUNT NO. 11-1445.

Respectfully submitted,

KODA & ANDROLIA

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